

BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
and First Supplemental Accusation
Against:

EUGENE ABTS, M.D.
License No. C-9465,

Respondent.

NO. D-2409

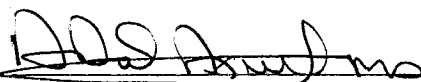
DECISION

The attached Stipulation is hereby adopted by the Division
of Medical Quality of the Board of Medical Quality Assurance as its
Decision in the above-entitled matter.

This Decision shall become effective on May 19, 1980.

IT IS SO ORDERED April 17, 1980.

DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE



A. DAVID AXELRAD, M.D.
Secretary-Treasurer

ORIGINAL

1 GEORGE DEUKMEJIAN, Attorney General
of the State of California

2 JOEL S. PRIMES
Deputy Attorney General

3 555 Capitol Mall, Suite 350
Sacramento, California 95814

4 Telephone: 916/445-5312

5 Attorneys for Complainant

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8 BEFORE THE
9 DIVISION OF MEDICAL QUALITY
10 BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

11 In the Matter of the Accusation) No. D-2409
12 and First Supplemental Accusation)
Against:)

13 EUGENE ABTS, M.D.)
2767 Olive Hwy. #5)
14 Oroville, California)

15 License No. C-9465)

16 Respondent.)
17

STIPULATION

18 Respondent, Eugene Abts, M.D., by and through his
19 attorney, Robert Sullivan, and the Board of Medical Quality
20 Assurance, Division of Medical Quality, through its counsel,
21 Deputy Attorney General Joel S. Primes, do hereby enter into the
22 following stipulation.

23 1. Respondent, Eugene Abts, M.D., hereby acknowledges
24 receipt of Accusation No. D-2409, First Supplemental Accusation,
25 Statement to Respondent and copies of the Notice of Defense
26 form.

27 2. Respondent and his counsel have fully discussed

1 the charges and allegations contained in said Accusations No. D-
2 2409 on file with the Division of Medical Quality, Board of
3 Medical Quality Assurance, and respondent has been fully
4 advised with regard to his rights in this matter.

5 3. Respondent is fully aware of the right to a
6 hearing on the charges and allegations contained in said
7 Accusations No. D-2409, his right to reconsideration, appeal
8 and any and all other rights which may be accorded pursuant to
9 the California Administrative Procedure Act and the laws of the
10 State of California.

11 4. Respondent hereby freely and voluntarily waives
12 his right to a hearing, reconsideration, appeal, and any and
13 all other rights which may be accorded by the California
14 Administrative Procedure Act and the laws of the State of
15 California with regard to said Accusations No. D-2409.

16 5. For the purposes of this proceeding, respondent
17 admits each and every allegation contained in Count 3 of the
18 September 24, 1979 Accusation and the allegations contained in
19 the First Supplemental Accusation. Both admissions relate only
20 to a violation of Business and Professions Code section 2399.5,
21 the prescribing of drugs without a medical indication or
22 pathological reason. Based on the foregoing stipulation, the
23 Division of Medical Quality, Board of Medical Quality
24 Assurance, may issue the following order:

25 A. The license to practice medicine and surgery in
26 the State of California heretofore issued to respondent is
27 hereby revoked; provided, however, execution of this order of

1 revocation shall be stayed and respondent shall be placed on
2 probation for a period of five years from and after the
3 effective date of this decision upon the terms and conditions
4 listed herein.

5 B. Respondent shall not, during the first 45 days
6 immediately following the effective date of the Board's order,
7 exercise any of the rights and privileges granted to him by his
8 license to practice as a physician and surgeon in the State of
9 California.

10 C. Respondent shall not prescribe, administer,
11 dispense, order, or possess (except as prescribed, administered
12 or dispensed to respondent by another person authorized by law
13 to do so) controlled substances as defined by the California
14 Uniform Controlled Substance Act, except for those drugs listed
15 in Schedules IV and V of the Act and Empirin Codeine 3, and
16 Tylenol with Codeine 3.

17 D. Within one year of the effective date of this
18 decision, respondent shall submit to the Division for its prior
19 approval, a program of approved Category 1 continuing medical
20 education in pharmacology. The exact number of hours and the
21 specific content of the program shall be determined by the
22 Division or its designee and shall not total less than 25 nor
23 more than 75 hours per year. This program shall be in addition
24 to the continuing medical education requirements for
25 relicensure. The Division or its designee may also require
26 respondent to pass an examination related to the content of the
27 program.

1 E. Respondent shall obey all federal, state and local
2 laws and all rules and regulations governing the practice of
3 medicine in California.

4 F. Respondent shall submit quarterly declarations
5 under penalty of perjury on forms provided by the Division,
6 stating whether there has been compliance with all the
7 conditions of probation.

8 G. Respondent shall comply with the Division's
9 probation surveillance program.

10 H. Respondent shall appear in person for interviews
11 with the Division's medical consultant upon request at various
12 intervals and with reasonable notice.

13 I. In the event respondent should leave California to
14 reside or practice outside the State, respondent must notify in
15 writing the Division of the dates of departure and return.
16 Periods of residency or practice outside California will not
17 apply to the reduction of this probationary period.

18 J. If respondent violates probation in any respect,
19 the Division, after giving respondent notice and the opportunity
20 to be heard, may set aside the stay order and impose the
21 revocation of the respondent's certificate.

22 K. Upon successful completion of probation,
23 respondent's certificate will be fully restored.

24 It is agreed that the terms set forth herein shall be
25 null and void and not binding upon the parties hereto unless
26 approved by the Board of Medical Quality Assurance of the State
27 of California.

1 DATED

1/23/80

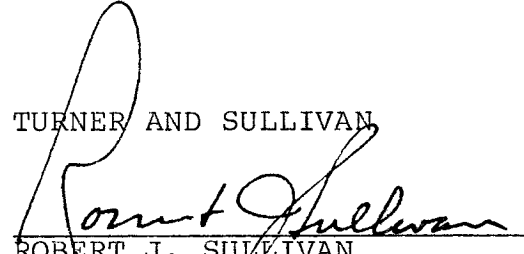
GEORGE DEUKMEJIAN, Attorney General
of the State of California
JOEL S. PRIMES
Deputy Attorney General


JOEL S. PRIMES
Deputy Attorney General

Attorneys for Complainant

9 DATED: 1/7/80

TURNER AND SULLIVAN


ROBERT J. SULLIVAN

Attorneys for Respondent

14 I have read the above document and fully discussed it
15 with my counsel. I agree to the above stipulation.

18 DATED: 1/7/80


EUGENE ABTS, M.D.

Respondent

GEORGE DEUKMEJIAN, Attorney General
of the State of California
JOEL S. PRIMES
Deputy Attorney General
555 Capitol Mall, Suite 350
Sacramento, California 95814
Telephone: 916/445-5312

Attorneys for Complainant

BEFORE THE
DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	No. D-2409
Against:)	
)	
EUGENE ABTS, M.D.)	<u>ACCUSATION</u>
2767 Olive Hwy. #5)	
Oroville, California)	
)	
License No. C-9465)	
)	
Respondent.)	

COMES NOW the complainant, Robert Rowland, and as cause
for disciplinary action against the above named respondent,
alleges as follows:

I

Complainant, Robert Rowland, is the Executive Director
of the Board of Medical Quality Assurance of the State of
California (hereinafter referred to as the "Board") and makes
this accusation solely in such official capacity.

II

On or about November 20, 1946, respondent Eugene Abts,

1 M.D., was issued Physician's and Surgeon's Certificate No. C-9465
2 by the Board to practice medicine and surgery in the State of
3 California and at all times mentioned herein respondent was and
4 now is licensed by the Board to practice medicine and surgery in
5 this State.

6 III

7 Section 2361 of the Business and Professions Code
8 (hereinafter referred to as the "Code") provides that the
9 Division of Medical Quality shall take action against any holder
10 of a certificate, who is guilty of unprofessional conduct which
11 has been brought to its attention, or whose certificate has been
12 procured by fraud or misrepresentation or issued by mistake.

13 Unprofessional conduct includes, but is not limited to,
14 the following:

15 (a) Violating or attempting to violate, directly or
16 indirectly, or assisting in or abetting the violation of, or
17 conspiring to violate, any provision or term of this chapter.

18 IV

19 Section 2390 of the Code provides that the use or
20 prescribing for or administering to himself, of any of the
21 controlled substances specified in Schedule I of section 11054,
22 or Schedule II of section 11055, or any narcotic drug specified
23 in Schedule III of section 11056, of the Health and Safety Code;
24 or the use of any of the dangerous drugs specified in section
25 4211 of this code, or of alcoholic beverages to the extent, or in
26 such a manner as to be dangerous or injurious to a person holding
27 a certificate under this chapter, or to any other person or to

1 the public, or to the extent that such use impairs the ability of
2 such person so holding such certificate to conduct with safety to
3 the public the practice authorized by such certificate or the
4 conviction of more than one misdemeanor or any felony involving
5 the use, consumption or self-administration of any of the
6 substances referred to in this section or any combination
7 thereof, constitutes unprofessional conduct within the meaning of
8 this chapter; the record of the conviction is conclusive evidence
9 of such unprofessional conduct; a plea or verdict of guilty or a
10 conviction following a plea of nolo contendere is deemed to be a
11 conviction within the meaning of this section; the Division of
12 Medical Quality may order the license suspended or revoked, or
13 may decline to issue a license, when the time for appeal has
14 elapsed or the judgment of conviction has been affirmed on appeal
15 or when an order granting probation is made suspending imposition
16 of sentence, irrespective of a subsequent order under the
17 provisions of section 1203.4 of the Penal Code allowing such
18 person to withdraw his plea of guilty and to enter a plea of not
19 guilty, or setting aside the verdict of guilty, or dismissing the
20 accusation, information or indictment.

21 V

22 Section 2391 of the Code provides that unless otherwise
23 provided by this section, the prescribing, selling, furnishing,
24 giving away or administering or offering to prescribe, sell,
25 furnish, give away or administer any of the drugs or compounds
26 mentioned in section 2390 to a habitue or addict constitutes
27 unprofessional conduct within the meaning of this chapter.

If the drugs or compounds are administered or applied by a licensed physician and surgeon of this state or by a registered nurse acting under his instructions and supervision, this section shall not apply to any of the following cases:

(a) Emergency treatment of a patient whose addiction is complicated by the presence of incurable disease, serious accident or injury, or the infirmities attendant upon age.

(b) Treatment of habitues or addicts in institutions approved by the Division of Licensing where the patient is kept under restraint and control, or in city or county jails or state prisons.

VI

Section 2399.5 of the Code provided, prior to 1976, as follows:

Prescribing, dispensing or furnishing dangerous drugs as defined in section 4211 of the Business and Professions Code without a good faith prior examination and medical indication therefor, constitutes unprofessional conduct within the meaning of this chapter.

VII

Section 2399.5 of the Code was amended in 1976 to provide as follows:

(a) Prescribing, dispensing or furnishing dangerous drugs as defined in section 4211 of the Business and Professions Code without a good faith prior examination and medical indication therefor, constitutes unprofessional conduct within the meaning of this chapter.

1 (b) No physician and surgeon shall be found to have
2 committed unprofessional conduct, within the meaning of
3 subdivision (a) if, at the time drugs were prescribed, dispensed,
4 or furnished:

5 (1) The physician and surgeon was a designated
6 physician serving in the absence of the patient's physician,
7 provided such drugs were prescribed, dispensed, or furnished only
8 as necessary to maintain the patient until the return of his
9 physician, but in any case no longer than 72 hours; or

10 (2) The physician and surgeon transmitted the order
11 for such drugs to a registered nurse in an inpatient facility
12 provided that such physician and surgeon has consulted with a
13 registered nurse who has reviewed the patient's records and
14 provided that such physician and surgeon was designated as the
15 physician to serve in the absence of the patient's physician; or

16 (3) The physician and surgeon was a designated
17 physician serving in the absence of the patient's physician and
18 was in possession of or had utilized the patient's records and
19 ordered the renewal of a medically indicated prescription for an
20 amount not exceeding the original prescription in strength or
21 amount or for more than one refilling.

22 VIII

23 Section 11154 of the Health and Safety Code provides as
24 follows:

25 Except in the regular practice of his profession, no
26 person shall prescribe, administer, dispense, or furnish, a
27 controlled substance to or for any person who is not under his

1 treatment for a pathology or condition other than addiction to a
2 controlled substance, except as provided in this division.

3 IX

4 Section 11190 of the Health and Safety Code, as amended
5 in 1976, provides:

6 Every practitioner, other than a pharmacist, who issues
7 a prescription, or dispenses or administers a controlled
8 substance classified in Schedule II shall make a record that, as
9 to the transaction, shows all of the following:

10 (a) The name and address of the patient.

11 (b) The date.

12 (c) The character and quantity of controlled
13 substances involved.

14 The prescriber's record shall show the pathology and
15 purpose for which the prescription is issued, or the controlled
16 substance administered, prescribed, or dispensed.

17 X

18 Respondent is guilty of unprofessional conduct as
19 outlined in sections 2360, 2361, 2391, 2399.5 and Health and
20 Safety Code sections 11154 and 11190 as follows:

21 COUNT 1:

22 Respondent prescribed Percodan, a Schedule II narcotic
23 (Health & Saf. Code, § 11055, subd. (d)(1); § 4211, subd. (k) of
24 the Code and 1308.12, subd. (d)(1) C.F.R.), to patient R [REDACTED]
25 L [REDACTED] on the following occasions without a medical indication
26 or pathological reason:

27 //

	<u>DATE</u>	<u>PERCODAN TABLETS</u>
1		
2	5/7/76	100
3	7/1/76	100
4	8/30/76	200
5	9/24/76	200
6	10/22/76	200
7	11/19/76	200
8	1/14/77	200
9	2/11/77	200
10	3/11/77	200
11	4/6/77	200
12	5/5/77	200
13	5/25/77	200
14	6/23/77	200
15	7/21/77	200
16	8/26/77	200
17	9/21/77	200
18	10/17/77	100
19	11/10/77	200
20	1/3/78	200
21	1/30/77	200
22	2/25/78	200
23	3/23/78	200

24 Between May 7, 1976 and March 23, 1978, 4,100 Percodan
 25 tablets were prescribed for patient Le [REDACTED] without respondent
 26 ever seeing the patient.

27 //

1 COUNT 2:

2 Respondent prescribed Dilaudid, a Schedule II
3 dangerous drug (Health & Saf. Code, § 11055, subd. (d)(1); §
4 4211, subd. (k) of the Code and 1308.02, subd. (d)(1) C.F.R.),
5 to patient W [REDACTED] C [REDACTED] on the following occasions without a
6 medical indication or pathological reason and to a patient
7 respondent knew or should have known was a habitue or addict:

<u>DATE</u>	<u>DILAUDID</u>
10/12/76	4 mg X 20
11/11/76	4 mg X 36
12/16/76	4 mg X 36
7/11/66	4 mg X 60
8/29/77	4 mg X 60
9/1/77	4 mg X 60
10/17/77	4 mg X100
3/30/78	4 mg X100

17 Between July 11, 1977 and March 30, 1978, respondent
18 prescribed 320 Dilaudid tablets to patient W [REDACTED] C [REDACTED] with no
19 pathology, tests, or consultations.

20 COUNT 3:

21 Respondent prescribed Biphetamine, a Schedule II
22 dangerous drug (Health & Saf. Code, § 11055, subd. (d)(1); §
23 4211, subd. (k) of the Code and § 1308.12, subd. (d)(1) C.F.R.),
24 to patient J [REDACTED] S [REDACTED] on the following occasions without a
25 medical indication or pathological reason:

26 (a) October 26, 1977 - 36 - Biphetamine #20

27 (b) November 17, 1977 - Biphetamine #20

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(c) January 9, 1978 - Biphetamine #20

(d) February 13, 1978 - Biphetamine #20

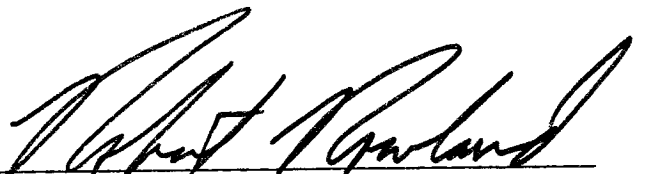
(e) March 31, 1978 - #60 Eskatrol

WHEREFORE, complainant prays that the Division of Medical Quality hold a hearing on the matters alleged herein and following a hearing issue a decision:

(1) Revoking or suspending the certificate of respondent.

(2) Taking such other and further action as is deemed necessary and proper.

DATED: September 24, 1979



ROBERT ROWLAND
Executive Director
Board of Medical Quality Assurance

1 GEORGE DEUKMEJIAN, Attorney General
 of the State of California
 2 JOEL S. PRIMES
 Deputy Attorney General
 3 555 Capitol Mall, Suite 350
 Sacramento, California 95814
 4 Telephone: 916/445-5312
 5 Attorneys for Complainant
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BEFORE THE
 DIVISION OF MEDICAL QUALITY
 BOARD OF MEDICAL QUALITY ASSURANCE
 DEPARTMENT OF CONSUMER AFFAIRS
 STATE OF CALIFORNIA

12	In the Matter of the Accusation)	No. D-2409
	Against:)	
13)	
	EUGENE ABTS, M.D.)	FIRST SUPPLEMENTAL
14	2767 Olive Hwy., #5)	<u>ACCUSATION</u>
	Oroville, California)	
15)	
	License No. C-9465)	
16)	
	Respondent.)	
17)	

18 COMES NOW the complainant, Robert Rowland, Executive
 19 Director of the Board of Medical Quality Assurance of the State
 20 of California, and for further cause for disciplinary action
 21 against the above named respondent, charges and alleges as
 22 follows:

I

23
 24 Complainant, Robert Rowland, is the Executive Director
 25 of the Board of Medical Quality Assurance of the State of
 26 California (hereinafter referred to as the "Board") and makes
 27 this accusation solely in such official capacity.

II

Health and Safety Code section 11150.5 provides that the provisions of this chapter shall be applicable to controlled substances subject to the Federal Controlled Substances Act (Title II, P.L. 91-513), as provided in subdivision (b) of section 11007. References in this chapter to controlled substances classified in a particular schedule shall be deemed to be a reference to the federal schedule of such number, rather than a reference to the schedules set forth in Chapter 2 (commencing with section 11053) of this division.

III

Dalmane (Flurazepam) is a hypnotic drug listed in the Code of Federal Regulations as a class 4 drug. (C.F.R., § 1308.14, subd. (b)(10).) Ativan (Lorazepam) is an antianxiety agent listed in the Code of Federal Regulations as a class 4 drug. (C.F.R., 1308.14, subd. (b)(11).) Tranxene (Clorazepate Dipotassium) is a depressant listed in the Code of Federal Regulations as a class 4 drug. (C.F.R., § 1308.14, subd. (b)(6).) Placidyl (Ethchlorvynol) is a hypnotic drug listed in the Code of Federal Regulations as a class 4 drug. (C.F.R., 1308.14, subd. (b).) Placidyl is a schedule 4 drug in California per Health and Safety Code section 11057, subdivision (b)(4).

IV

Respondent is guilty of unprofessional conduct as outlined in sections 2360, 2361 and 2399.5 of the Business and Professions Code as follows:

1 Respondent prescribed the following drugs to patient
2 M. B. on the following occasions without a medical
3 indication or pathological reason:

4	<u>DATE</u>	<u>DRUG</u>
5	9/27/78	Dalmane, 30 mg., #24
6	10/4/78	Dalmane refill
7	10/11/78	Ativan refill
8	10/13/78	Placidyl, 75 mg., #24
9		Tranzeca, 75 mg.

10 WHEREFORE, complainant prays that the Division of
11 Medical Quality hold a hearing on the matters alleged herein and
12 following the hearing issue a decision:

13 1. Revoking or suspending the certificate of
14 respondent.

15 2. Taking such other and further action as is deemed
16 necessary and proper.

17 DATED: November 30, 1979

18
19
20 

21 ROBERT ROWLAND
22 Executive Director
23 Board of Medical Quality Assurance
24
25
26
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